



# UNITED STATES PATENT AND TRADEMARK OFFICE

*AK*

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,620	08/13/2001	Mark Olijnyk	BRI-00052	5252

7590 12/03/2003  
William A. Birdwell  
Birdwell, Janke & Durando, PLC  
1100 SW Sixth Avenue  
Suite 1400  
Portland, OR 97204

EXAMINER

SHAHER, RICKY D

ART UNIT	PAPER NUMBER
----------	--------------

2872

DATE MAILED: 12/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/890,620

Applicant(s)

OLIJNYK ET AL.

Examiner

Ricky D. Shafer

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 5-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2872

1. Applicant's election with traverse of Group I (claims 1-15) in Paper No. 14 is acknowledged. The traversal is on the basis that there would be no burden to examine all of the claims of the nonelected invention along with the elected invention. This is not found persuasive because the lack of unity of invention set forth in Paper No. 12 is based on the fact that the inventions are not so linked to form a single inventive concept under PCT 13.1 because, under PCT 13.2, they lack the same or corresponding special technical features. Continued search and examination of claim(s) to a nonelected invention including claims have substantially different special technical features is a prima facie showing of burden. Applicant may overcome the requirement for lack of unity of invention by presenting an allowable linking claim.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 16-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 14.

3. Claims 2, 3 and 9-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 2 and 3, line 1, and claim 9, line 16, "said pivot" lacks proper antecedent basis.

In claim 9, line 13, "said detents" lacks proper antecedent basis.

In claim 9, line 18, "said mirror mounting means" lacks proper antecedent basis.

In claim 9, line 20, "said gear wheels" lacks proper antecedent basis.

Art Unit: 2872

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Van de Loo ('221).

Van de Loo discloses a mirror parking mechanism comprising a mirror mounting bracket represented as (10A and 10B), a mirror head (12), a detent (17b) having a recess portion (89) and a projection portion (88), a spring (23d), a gear wheel (25d), a worm drive (95) having a shaft (92) journaled in bearings, a motor (30) and a spigot/pin (11). Note figures 9 to 11 along with the associated description thereof.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van de Loo ('221).

Art Unit: 2872

Van de Loo discloses all of the subject matter claimed, note the above explanation, except for specifically stating that the recess is on the mirror head and the projection is on the mirror bracket.

It is well known to use complementary projections and recesses in the same field of endeavor for the purpose of mating one element to another element.

Therefore, it would have been obvious and/or within the level of one of ordinary skill in the art at the time the invention was made to rearrange the recess of Van de Loo to be provided on the mirror head, versus being provided on the mirror bracket, and the projection to be provide on mirror bracket, versus being provided on the mirror head in order to obtain an functional equivalent structure known in the art, since it has been held that rearranging or a mere reversal of the essential working parts of a device involves only routine skill in the art. Note In re Einstein, 8 USPQ 167; In re Gazda, 104 USPQ 400 and In re Japikse, 86 USPQ 70.

8. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 2872

10. Claims 10-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

12. The references lined through on the information disclosure statement (PTO-1449) have not been considered by the examiner because applicant failed to properly include a publication date or provide a complete copy of the references. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Application/Control Number: 09/890,620

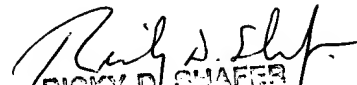
Page 6

Art Unit: 2872

13. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS

November 30, 2003

  
RICKY D. SHAFER  
PATENT ATTORNEY  
ART UNIT 2872